

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

DANIEL RAY HUFSTETLER)	
)	
v.)	1:16-cv-134-SM
)	
UNITED STATES OF AMERICA)	

MOTION TO STAY

In 2014, the defendant was convicted of one count of Bank Robbery in violation of 18 U.S.C. § 2113(a). The defendant was found to be a career offender under the sentencing guidelines and received a 180-month sentence. The defendant has filed a 28 U.S.C. 2255 motion invoking Johnson v. United States, 135 S. Ct. 2551 (2015), to argue that he is no longer a career offender because Johnson extends to invalidate the career offender's residual clause, which was necessary to conclude that he was a career offender.¹

The threshold issues to resolving the defendant's motion are: (1) does Johnson, which invalidated the residual clause under the Armed Career Criminal Act, apply to the sentencing guidelines (the government believes that it does) and (2) assuming Johnson's applicability, does it apply to cases that are on collateral review under the Teague doctrine (the government believes it does not). On June 27, 2016, the United States Supreme Court agreed to hear Beckles v. United States, No. 15-8554, which will answer these two threshold issues, thereby substantially streamlining the necessary district court litigation. For this reason, this Court should stay further proceedings until Beckles is decided sometime next term. The government requests 14 days from the date that Beckles is decided to respond to the defendant's motion.

Counsel was unable to confer with defendant regarding assent to the motion due to his incarceration.

Respectfully submitted,

EMILY GRAY RICE
United States Attorney

¹ The defendant's current release date is in 2025.

July 26, 2016

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CERTIFICATE OF SERVICE

This motion has been served via US Mail upon defendant Daniel Ray Hufstetler, #12559-049, USP – Lee, PO Box 305, Jonesville, VA 24263-0305.

/s/ Seth R. Aframe
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